

Assembly Bill No. 592

CHAPTER 304

An act to amend Section 2234.1 of the Business and Professions Code, relating to healing arts.

[Approved by Governor September 22, 2005. Filed with
Secretary of State September 22, 2005.]

LEGISLATIVE COUNSEL'S DIGEST

AB 592, Yee. Physicians and surgeons.

Existing law, the Medical Practice Act, creates the Medical Board of California and makes it responsible through its Division of Licensing and Medical Quality for licensing and regulating physicians and surgeons. Under the act, disciplinary action may be taken against a physician and surgeon for engaging in unprofessional conduct, which includes gross negligence, repeated negligent acts, and incompetence. Existing law provides that a physician and surgeon is not subject to discipline for these particular aspects of unprofessional conduct solely on the basis that the treatment or advice he or she rendered to a patient is alternative or complementary medicine, as defined, if specified conditions are satisfied.

This bill would also provide that a physician and surgeon is not subject to discipline for these particular aspects of unprofessional conduct solely on the basis that the treatment or advice he or she rendered to a patient is alternative or complementary medicine, including the treatment of persistent Lyme Disease, if those conditions are satisfied.

The people of the State of California do enact as follows:

SECTION 1. Section 2234.1 of the Business and Professions Code is amended to read:

2234.1. (a) A physician and surgeon shall not be subject to discipline pursuant to subdivision (b), (c), or (d) of Section 2234 solely on the basis that the treatment or advice he or she rendered to a patient is alternative or complementary medicine, including the treatment of persistent Lyme Disease, if that treatment or advice meets all of the following requirements:

(1) It is provided after informed consent and a good-faith prior examination of the patient, and medical indication exists for the treatment or advice, or it is provided for health or well-being.

(2) It is provided after the physician and surgeon has given the patient information concerning conventional treatment and describing the education, experience, and credentials of the physician and surgeon related to the alternative or complementary medicine that he or she practices.

(3) In the case of alternative or complementary medicine it does not cause a delay in, or discourage traditional diagnosis of, a condition of the patient.

(4) It does not cause death or serious bodily injury to the patient.

(b) For purposes of this section, “alternative or complementary medicine,” means those health care methods of diagnosis, treatment, or healing that are not generally used but that provide a reasonable potential for therapeutic gain in a patient’s medical condition that is not outweighed by the risk of the health care method.

(c) Since the National Institute of Medicine has reported that it can take up to 17 years for a new best practice to reach the average physician and surgeon, it is prudent to give attention to new developments not only in general medical care but in the actual treatment of specific diseases, particularly those that are not yet broadly recognized in California.